

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY

DOCUMENT

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DOC #:

DATE FILED: AUG 19 2013

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CARLOS HERNANDEZ,

Plaintiff,

12 Civ. 8090 (AJN) (SN)

-v-

ORDER

ROLAND LARKIN,

Defendant.
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ALISON J. NATHAN, District Judge:


On July 26, 2013, the Honorable Sarah Netburn, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending the denial of Plaintiff's *pro se* petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254.

Federal Rule of Civil Procedure 72(b)(2) allows a party to object to a Report and Recommendation within 14 days. Neither party has done so, and, for that reason alone, they have waived any right to review by this Court. *See Thomas v. Arn*, 474 U.S. 140, 147–48 (1985); *Wagner & Wagner LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010).

Accordingly, for substantially the same reasons as set forth in Judge Netburn's Report and Recommendation, the Court hereby adopts the Report and Recommendation, and denies Plaintiff's petition for a writ of *habeas corpus*. In addition, the Court declines to issue a certificate of appealability. Petitioner has not made a substantial showing of a denial of a federal right, and appellate review is therefore not warranted. *Love v. McCray*, 413 F.3d 192, 195 (2d Cir. 2005). The Court also finds pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The Clerk of Court shall dismiss this petition and close the case.

SO ORDERED.

Dated: August 19, 2013
New York, New York



ALISON J. NATHAN
United States District Judge

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TO PRO SE PARTY OF RECORD.